

REMARKS

Applicants have amended independent claims 34 and 49 to delete “dye” and “chromogenic molecule.” No new matter has been added. In addition, Applicants have also rewritten claims 34, 35, 41-44, 46-50, 53, 81 and 82 as new claims 83-96. These claims recite “chromogenic molecule” instead of “dye.” No new matter has been added.

Claims 34, 35, 41-44, 46-50, 53, and 81-96 are now pending for examination.

Rejections under 35 U.S.C. § 103(a) in view of Freeman and Rao

Claims 34, 35, 43, 44, 46, 47, 49, 50, 53, 81 and 82 have been rejected under 35 USC § 103(a) as being unpatentable over Freeman, U.S. Patent No. 6,653,124 (“Freeman”) in view of Rao, U.S. Patent Application Publication No. 2004/0121453 (“Rao”).

Applicants do not concede that it would have been obvious to combine Freeman and Rao in the manner as suggested in the Office Action. However, to expedite the patent application process, Applicants have amended the independent claims as currently pending to delete “dye.” It is not seen where Freeman or Rao teaches a fluorescent molecule or a chromogenic molecule, as is recited in the claims as currently pending. Thus, it is respectfully requested that the rejection of these claims in view of Freeman and Rao be withdrawn.

Rejections under 35 U.S.C. § 103(a) in view of Sheppard and Rao

Claims 34, 35, 44, 46, 47, 49, 50, 53 and 82 have been rejected under 35 USC § 103(a) as being unpatentable over Sheppard, *et al.*, U.S. Patent No. 6,143,247 (“Sheppard”) in view of Rao.

Initially, Applicants do not concede that Sheppard is properly prior art to the Applicants’ claimed invention. Applicants reserve the right to establish invention dates for the claimed inventions that are on or before the effective 35 U.S.C. § 102(e) date of Sheppard relied on in the Office Action.

Applicants do not concede that it would have been obvious to combine Sheppard and Rao in the manner as suggested in the Office Action. However, to expedite the patent application process, Applicants have amended the independent claims as currently pending to delete “dye.” It is not seen where Sheppard or Rao teaches a fluorescent molecule or a chromogenic molecule, as is

recited in the claims as currently pending. Thus, it is respectfully requested that the rejection of these claims in view of Sheppard and Rao be withdrawn.

Rejections under 35 U.S.C. § 103(a) in view of Freeman, Sheppard, Rao and Kapur

Claims 41, 42 and 48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over either Freeman or Sheppard, in view of Rao and further in view of Kapur, *et al.*, U.S. Patent No. 6,548,263 ("Kapur").

Claims 41, 42, and 48 each depend, either directly or indirectly, from claim 34. For at least the reasons explained above with respect to the rejection under §103 in view of Freeman or Sheppard, the premise of the rejection of claim 34 (that Freeman or Sheppard each teach all of the limitations of claim 34) is believed to be incorrect. Accordingly, while Applicants do not concede that there would have been any objective teaching, suggestion, or motivation to combine either Freeman or Sheppard and Kapur in the manner suggested in the Office Action, the present rejection cannot stand, regardless. Thus, withdrawal of the rejection of claims 41, 42, and 48 is respectfully requested.

Double Patenting Rejections

Claims 34, 35, 43, 44, 49, 50, and 53 have been rejected under the judicially-created doctrine of obviousness-type double-patenting as being unpatentable over claims 79-82 and 92-100 of co-pending Application Ser. No. 10/664,067. However, without acceding to the correctness of this rejection, Applicants note that they intend to cancel claims 79-82 and 92-100 in 10/664,067. Thus, it is believed that this rejection will be rendered moot.

Claims 34, 35, 43, 44, 49, 50, and 53 have also been rejected under the judicially-created doctrine of obviousness-type double-patenting as being unpatentable over claims 70, 100, 101, 103, and 104 of co-pending Application Ser. No. 10/927,789. However, without acceding to the correctness of this rejection, Applicants note that they intend to cancel claims 70, 100, 101, 103, and 104 in 10/927,789. Thus, it is believed that this rejection will be rendered moot.

CONCLUSION

In view of the foregoing remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after the foregoing remarks, that the application is not in condition for allowance, the Examiner is requested to call the undersigned at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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Respectfully submitted,

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